

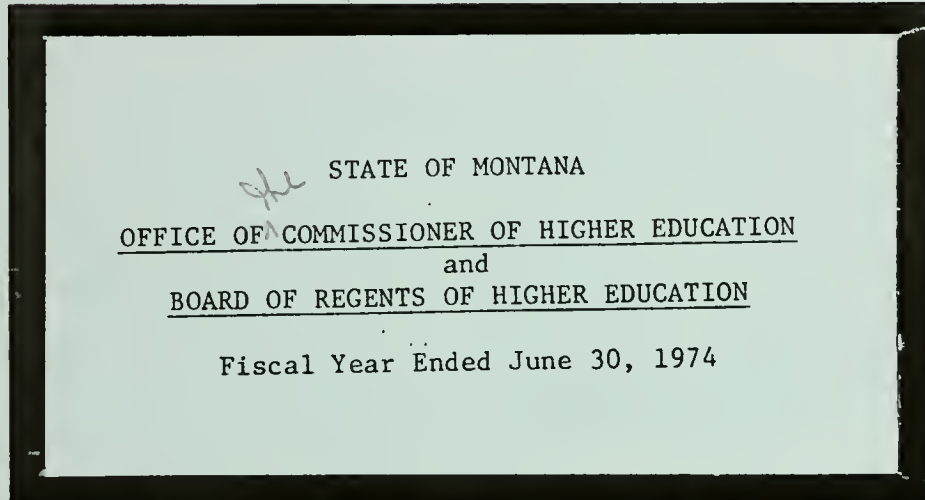
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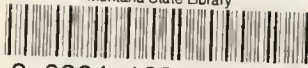


OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MONTANA
STATE CAPITOL • HELENA



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SUMMARY OF RECOMMENDATIONS

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The Commissioner of Higher Education seek budget amendments when required to allow proper allocation of program costs. 2

Agency Reply: Concur. See page 17.

The Board of Regents deposit the Peter Potter Loan Fund moneys in the Trust and Legacy Fund within the State Treasury, or seek legislation allowing the maintenance of the Peter Potter Loan Fund outside the State Treasury. 3

Agency Reply: Concur with qualification. See page 17.

The Commissioner of Higher Education make expenditures for services only after the services have been rendered. 4

Agency Reply: Concur. See page 17.



STATE OF MONTANA
Office of the Legislative Auditor

STATE CAPITOL
HELENA, MONTANA 59601
406/449-3122

The Legislative Audit Committee
of the Montana State Legislature:

We have examined the balance sheets of the Office of the Commissioner of Higher Education and the Board of Regents as of June 30, 1974, and the related statements of program cost analysis and changes in fund balances and general fixed assets for the year then ended. In addition, we examined the statement of assets of the Peter Potter Loan Fund as of December 31, 1974, and the related statement of cash transactions for the year then ended. The Board of Regents act as the trustees of the Peter Potter Loan Fund. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of the Office of the Commissioner of Higher Education and the Board of Regents at June 30, 1974, and the Peter Potter Loan Fund at December 31, 1974, and the results of their operations for the years then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Respectfully submitted,

Morris L. Brusett
Morris L. Brusett, C.P.A.
Legislative Auditor

July 31, 1975

COMMENTS

GENERAL

The Board of Regents of Higher Education consists of seven members appointed by the Governor and confirmed by the Senate. The objectives of the board are to supervise, coordinate, manage and control the Montana University System and to supervise and coordinate other public educational institutions assigned by law.

The Board of Regents appoints a Commissioner of Higher Education who employs a staff that executes and administers the policies, decisions and rules of the Board of Regents.

FUNDING

Administrative costs of the Board of Regents and the Commissioner's Office are funded under separate programs. The Commissioner's office maintains the accounting records for both programs.

On June 30, 1974, the Board of Regents' program budget was exhausted. After the total amount appropriated for the program was spent, two board members submitted travel claims amounting to \$691 relating to attendance at Board meetings. These claims were paid from the Commissioner's budget. Travel claims for members traveling to Board meetings should be paid from the Board's budget. To properly allocate program costs, the Commissioner's office should have requested a budget amendment for these expenditures and should have charged these claims to the Board's amended budget.

RECOMMENDATION

We recommend that the Commissioner of Higher Education seek budget amendments when required to allow proper allocation of program costs.

LOAN FUND

The Montana University System was willed the assets to establish a college loan fund to be used for loans to Butte high school graduates who attend one of the Montana university units. As trustee, the Board of Regents selected the First Metals Bank of Butte to administer the loan moneys. Therefore, the fund's assets are being held outside the state treasury. This is not in conformance with Section 79-410(8), R.C.M. 1947, which provides that trust funds belonging to the State of Montana must be held in the State Treasurer's Trust and Legacy Fund. One effect of the assets' being held outside the treasury is that the collection services of the Department of Revenue cannot be utilized for bad debt collections.

At December 31, 1974, the fund's assets amounted to \$149,125. Of this total, \$79,285 represented student loans. The bank performed a great deal of work for the \$710 fee which it charged the loan fund for calendar year 1974. The bank is equipped to disburse and make collections for these loans and to invest the idle moneys. It is likely that the Commissioner's office would expend much more than the amount of the bank's service fee to administer the loan fund itself.

RECOMMENDATION

We recommend that the Board of Regents deposit the Peter Potter Loan Fund moneys in the Trust and Legacy Fund within the State Treasury, or seek legislation allowing the maintenance of the Peter Potter Loan Fund outside the State Treasury.

PREPAID EXPENSE

On December 30, 1974, the Commissioner of Higher Education entered into a contractual agreement with a consultant who was to perform certain

duties, including evaluation of the alternatives available to the University System for Workmen's Compensation insurance coverage and development of recommendations to enhance the University System's efforts to attract charitable contributions. These services were to be performed during the months of January, February and March, 1975, on a part-time basis for \$3,000.

On December 31, 1974, the Commissioner's office paid the consultant the \$3,000 for services that had not yet been performed. Although we found no state law or regulation which prohibits prepayment of expenditures of this nature, prepayment of consulting fees is not a good business practice since there is no guarantee that the services will be satisfactorily performed.

RECOMMENDATION

We recommend that the Commissioner of Higher Education make expenditures for services only after the services have been rendered.

FINAL COMMENTS

We have reviewed the comments and recommendations contained in this report with the Commissioner of Higher Education. The Commissioner's written response is presented on page 17 of this report.

We wish to express our appreciation to the Commissioner and his staff for their cooperation.

OFFICE OF COMMISSIONER OF HIGHER EDUCATIONBalance Sheet - General Fund
June 30, 1974ASSETS

Encumbered Appropriation	\$4,279.00
--------------------------	------------

LIABILITIES

Accrued Liabilities	\$4,279.00
---------------------	------------

Contingent Liabilities (Exhibit K)	
------------------------------------	--

<u>FUND BALANCE</u>	<u>-0-</u>
---------------------	------------

<u>TOTAL LIABILITIES & FUND BALANCE</u>	<u>\$4,279.00</u>
---	-------------------

Balance Sheet - Federal Funds
June 30, 1974ASSETS

Cash	\$ 541.00
------	-----------

Prepaid Expense	<u>2,140.00</u>
-----------------	-----------------

Total Assets	<u>\$2,681.00</u>
--------------	-------------------

FUND BALANCE	<u>\$2,681.00</u>
--------------	-------------------

OFFICE OF COMMISSIONER OF HIGHER EDUCATIONStatement of Changes in Fund Balance - General Funds
For Year Ended June 30, 1974

Beginning Balance, July 1, 1973		-0-
<u>Receipts:</u>		
General Fund Appropriation		<u>\$1,786,126</u>
Total Available		\$1,786,126
<u>Disbursements:</u>		
Administration	\$105,411 ⁽¹⁾	
Student Assistance	668,702	
Community College Grants	<u>983,000</u>	
Total Disbursements		<u>\$1,757,113</u>
Net		29,013
Less: Reversion - Rural Dentistry		12,000
Reversion - Unobligated Moneys ⁽²⁾		<u>17,013</u>
<u>Fund Balance - June 30, 1974</u>		<u><u>-0-</u></u>

(1) Program was reimbursed \$4,879.94 for salary of employee funded by CETA. This amount is not included in the above disbursements.

(2) Of the \$17,013 reverted at June 30, 1974, \$15,500 was used to increase the fiscal year ended June 30, 1975 budget and \$1,167 was used to pay fiscal year 1973-74 expenses not recognized at June 30, 1974.

OFFICE OF COMMISSIONER OF HIGHER EDUCATION

Statement of Changes in Fund Balance - Federal Funds

For Year Ended June 30, 1974

Beginning Balance, July 1, 1973	\$ 6,162.01
<u>Receipts:</u>	
Federal Fund Appropriation	<u>58,236.00</u>
Total Available	\$64,398.01
<u>Disbursements:</u>	
Federal Planning	<u>61,717.01</u>
Fund Balance - June 30, 1974	<u><u>\$ 2,681.00</u></u>

OFFICE OF COMMISSIONER OF HIGHER EDUCATIONStatement of Program Cost Analysis
For Year Ended June 30, 1974

	<u>Admin- istration</u>	<u>Student Assistance</u>	<u>Federal Planning</u>	<u>Community College Assistance</u>
Personal Services	\$80,964	\$ 7,594	\$33,231	
Operating Expenses	24,192	1,008	20,522	
Equipment	255			
Grants	<u> </u>	<u>660,100</u>	<u>7,964</u>	<u>\$983,000</u>
TOTAL	<u>\$105,411</u>	<u>\$668,702</u>	<u>\$61,717</u>	<u>\$983,000</u>

OFFICE OF COMMISSIONER OF HIGHER EDUCATIONStatement of Changes in Plant Funds
For Year Ended June 30, 1974

Beginning Balance, July 1, 1973		\$16,362
Additions:		
Furniture	\$342	
Equipment	<u>204</u>	
Total Additions		<u>546</u>
Ending Balance, June 30, 1974		<u><u>\$16,908</u></u>

BOARD OF REGENTS OF HIGHER EDUCATION

Balance Sheet - Millage Fund
June 30, 1974

ASSETS

Encumbered Appropriation \$104.29

LIABILITIES

Accrued Liabilities 104.29

Contingent Liabilities (Exhibit K)

FUND BALANCE -0-

TOTAL LIABILITIES & FUND BALANCE \$104.29

BOARD OF REGENTS OF HIGHER EDUCATIONStatement of Changes in Fund Balance - Millage Funds
For Year Ended June 30, 1974

Beginning Balance, July 1, 1973	-0-
<u>Receipts:</u>	
Millage Fund Appropriation	\$18,801
<u>Disbursements:</u>	
Administration	<u>18,801</u>
Fund Balance - June 30, 1974	-0-

A S S E T S

December 31, 1974

BONDS

\$1,000.00	American Tel. & Tel. Co. 8-3/4% 5-15-2000	\$ 1,000.00
\$3,600.00	United States Steel Corp. 4-5/8% 1996	<u>3,600.00</u>
	Total Bonds -	\$ 4,600.00

STOCKS

18 Sh	American Tel. & Tel. Co. \$4.00 Pfd.	900.00
372 Sh	American Tel. & Tel. Co.	26,644.50
20 Wts.	American Tel. & Tel. Co.	---
78 Sh	Anaconda Company	1,755.00
165 Sh	Cannon Mills Company	2,937.00
30 Sh	Chesapeake & Ohio Railway Co.	2,370.00
12 Sh	E. I. Dupont DeNemours & Co.	3,180.00
15 Sh	General Motors Corporation	851.62
33 Sh	Indianapolis Power & Light Co.	1,142.62
99 Sh	Kennecott Copper Corporation	2,751.37
39 Sh	National Biscuit Company	<u>2,379.00</u>
	Total Stocks -	44,911.11

TIME SAVINGS CERTIFICATES

\$3,168.44	Time Savings Certificate 5 $\frac{1}{2}$ % 90 days	3,168.44
\$1,251.12	Time Savings Certificate 5 $\frac{1}{2}$ % 90 days	1,251.12
\$5,138.45	Time Savings Certificate 5 $\frac{1}{2}$ % 90 days	5,138.45
\$3,699.68	Time Savings Certificate 5 $\frac{1}{2}$ % 90 days	3,699.68
\$1,197.59	Time Savings Certificate 5 $\frac{1}{2}$ % 90 days	<u>1,197.59</u>
	Total Time Savings Certificates	14,455.28

Cash Balance - December 31, 1974 - 5,870.00

Total Student Loans - 79,284.00

TOTAL ASSETS \$149,124.84

REPORT OF FIRST METALS BANK & TRUST COMPANY - AGENT FOR PETER POTTER LOAN
FUND FROM DECEMBER 31, 1973 TO AND INCLUDING DECEMBER 31, 1974

Balance - Cash on Hand as of December 31, 1973	\$ 1,445.68
Payments Received -	<u>20,150.73</u>
Total Available	\$21,596.41
Total Disbursements	<u>\$15,722.61</u>
Cash Balance - December 31, 1974	<u><u>\$ 5,873.80</u></u>



THE MONTANA UNIVERSITY SYSTEM

TWELVE THIRTY-ONE ELEVENTH AVE.

HELENA, MONTANA

59601

EXHIBIT J

July 25, 1975

COMMISSIONER OF HIGHER EDUCATION

Dr. Lawrence K. Pettit
Commissioner of Higher Education
1231 11th Ave.
Helena, Montana 59601

Dear Commissioner Pettit:

The annual financial report of the Office of the Commissioner of Higher Education and the Board of Regents for the fiscal year ending June 30, 1974 is submitted herewith. The statements are based on the modified accrual basis of accounting in accordance with the State of Montana statutory fund structure. The statements do not conform to the generally accepted accounting principles applicable to colleges and universities.

The statements were generated in part from the records provided by the statewide budgeting and accounting system. The SBAS does not provide an agency balance sheet for the general fund portion of our expenditures. In addition, the SBAS is not yet capable of generating a statement of changes in general fixed assets to reflect the cost of physical plant and equipment items by agency. This statement was generated from the hand-kept records maintained in our office.

All state funds pertaining to the operation of the Commissioner's Office and the Board of Regents are maintained in the State Treasury and all receipts and expenditures are recorded through SBAS with the following exception.

The Peter Potter Loan Fund is under the jurisdiction and control of the Board of Regents, however, the fund is located and maintained by the First Metals Bank and Trust in Butte, Montana. The attached financial statement for the loan fund is provided by the trustee bank in accordance with the trust agreement. The assets of the loan fund are valued at cost. The loan fund records are maintained on a calendar year basis rather than a fiscal year.

Sincerely,

John H. Noble, Jr.
Deputy Commissioner for
Management and Fiscal Affairs

JHN:lw
Enclosures



THE MONTANA UNIVERSITY SYSTEM

TWELVE THIRTY-ONE ELEVENTH AVE.

HELENA, MONTANA

59601

EXHIBIT K

COMMISSIONER OF HIGHER EDUCATION

September 15, 1975

RECEIVED

SEP 16 1975

MONTANA LEGISLATIVE AUDITOR

Mr. Morris Brusett
Legislative Auditor
State Capitol
Helena, Montana 59601

Dear Mr. Brusett:

This is in response to your letter of August 1, 1975, inquiring about pending or threatened litigation, pending or threatened claims and other contingent liabilities involving the Commissioner's office or the Board of Regents.

The following pending litigation involves the Commissioner:

Smith, et al v. Pettit - A class action lawsuit brought by certain nonresident nursing students at MSU seeking an adjudication of their rights currently on appeal to the Ninth Circuit Court of Appeals. The relief sought is primarily injunctive but there is an indeterminate claim for attorneys fees.

Mossman v. Pettit - An action by an EMC professor seeking promotion and a declaratory judgement. Attorneys fees are claimed but damages are not sought.

The following pending litigation involves the Board of Regents:

Helen Mecklenborg, et al v. Board - A federal court class action lawsuit which has been tried but not decided as of this date. Plaintiffs (all MSU female faculty members) claim indeterminate amounts of damages in the form of backpay. Testimony at trial indicated damages claimed could be \$180,000 to \$210,000 for each of three separate contract years. Attorneys fees are also sought.

Leland v. Board - Lawsuit by terminated EMC professor seeking \$175,110 in damages.

Mr. Morris Brusett

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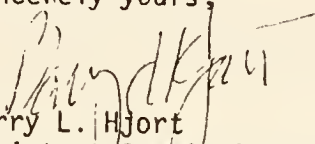
September 15, 1975

Mossman v. Regents - Similar to Mossman v. Pettit
in that the redress sought is declaratory only.

Mossman v. State - The third in the series of
lawsuits by a disgruntled EMC professor. Damages
totalling \$92,733.00 are sought against members of the
Board as individuals.

The above claims are the only potential contingent liabilities
of which I am aware involving the Commissioner of Higher
Education and/or the Board of Regents.

Sincerely yours,



Barry L. Hjort
Assistant Commissioner for Labor Relations
and Legal Affairs

BLH:wm

cc: Lawrence K. Pettit



THE MONTANA UNIVERSITY SYSTEM

TWELVE THIRTY-ONE ELEVENTH AVE.

HELENA, MONTANA

59601

September 17, 1975

COMMISSIONER OF HIGHER EDUCATION

RECEIVED

SEP 19 1975

MONTANA LEGISLATIVE AUDITOR

Mr. Morris Brusett
Legislative Auditor
State Capitol
Helena, Montana 59601

Dear Morris:

I have reviewed your final audit report for the Office of the Commissioner of Higher Education and the Board of Regents for fiscal year 1973-74. I concur with the three recommendations contained in the audit report with the following qualification pertaining to the Peter Potter Loan Fund.

I feel that there may be alternative courses of action that the Regents could possibly consider in addition to the two recommendations contained in the audit report.

I will seek legal advice as to the possibility of the Regents removing themselves as trustees and naming in their place a non-profit, charitable trust or foundation. Since there is a considerable amount of work involved in administering the loan fund, undoubtedly my office staff could not perform the duties at as reasonable a cost as First Metals Bank if the Regents decided to move the loan fund into the State treasury. For example, there is approximately \$80,000 in student loan receivables that requires constant servicing.

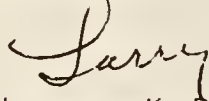
I am hesitant, however, in establishing any precedent in regard to privately willed bequests which would jeopardize the attitudes of potential donors towards establishing public trusts of this nature. Loan funds similar to the Potter Fund have made it possible for many financially deprived students to obtain a college education when they otherwise might not have been able. It seems unfortunate that the current state law does not allow any discretion on the deposit of state funds in the Trust and Legacy Account in the State treasury when it appears there is a clear advantage in the case of the Peter Potter fund to leave it in the First Metals Bank & Trust.

I appreciated the cooperation of your staff members during the course of the audit in that it was difficult to provide suitable working space and privacy in light of the space constraints we have. I particularly appreciate your cooperation in reducing the audit charge to my office in light of our budget constraints during 1973-74.

Mr. Morris Brusett
Page Two

I am personally pleased with the unqualified opinion on the financial statements. It should be recognized that such an opinion was made possible only through the diligent efforts of my fiscal staff in providing and maintaining records in addition to those provided by the State accounting system.

Sincerely,



Lawrence K. Pettit
Commissioner of Higher Education

LKP:wb

